

REMARKS

Oath/Declaration

The Applicant notes the Examining Attorney's objection, but in reviewing the declaration in question, submits that it does comply with the law. The examiner indicates it must identify the application by application number and filing date, which it does at lines 6 and 7 on page 1 of 3. It further identifies the inventors as joint inventors of the subject matter claimed.

Drawings

The drawings have been objected to based upon the reference character 111 used to designate two items. In response thereto, the Applicant has amended the specification as set forth below, which has eliminated the need to amend the drawings.

With respect to item 111, Applicant has amended the specification as set forth above to remove the objection and remove the need for a drawing amendment.

With respect to item 334a, Applicant has amended the specification as set forth above to remove the objection and remove the need for a drawing amendment.

With respect to item 350a, Applicant has amended the specification as set forth above to remove the objection and remove the need for a drawing amendment.

With respect to items 333 and 343, Applicant has amended the specification as set forth above to remove the objection and remove the need for a drawing amendment.

Specification Objected to

The Examining Attorney has objected to the specification, at paragraph [0054], line 6. In response thereto, Applicant has amended the specification at paragraph [0054] to remove said objection.

Claim Objections.

The Examining Attorney has objected to the claims in three ways.

The examiner objects to use abbreviations FC and SC in claims 2 and 4. Applicant submits that since the terms are the industry accepted and recognized terms, they are acceptable and sufficiently definite. Applicant therefore requests that the Examiner reconsider the objection.

The examiner objects in claim 21 to certain terminology. Applicant has amended claim 21 in response to the objection, thereby satisfying the objection.

The examiner objects in claim 25 and claim 26 to "the framework. In response thereto, applicant has amended claims 25 and 26 to remove the rejection.

Section 112 Claim Rejections

The Examining Attorney has rejected claims under section 112. In response thereto, Applicant has amended claims 23-26 consistent with the Examiner's rejection, to remove the rejection, as set forth more fully in the claim amendments. The term framework has been further clarified in those claims.

Anticipation - Section 102(b) Rejection

The Examining Attorney has rejected claims 1, 10 and 15-17, as being anticipated by Allen '224. The Applicant respectfully requests the Examining Attorney reconsider the rejection based on the arguments set forth below.

The applicant submits that Allen '224 does not anticipate this invention for the following reasons:

1. Allen '224 is not known or capable of performing the function of this invention, nor does it teach the disclosure of this invention. Allen '224 cannot perform the function of providing a two mount areas on an adapter holder, or said two areas with a cable passageway between the two.

There is no anticipation by a prior patent not known or recognized as being capable of performing the function of the patented device, but rather the prior patent must itself do the teaching. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 221 U.S.P.Q. 385 (1984); Edstrom-Carson & Co. v. Onsrud Machine Works, Inc., 129 U.S.P.Q. 457.

2. Allen '224 does not disclose the purpose, means or mechanism that this invention discloses;

3. Allen '224 does not solve the problems this invention solves, that is the density or spacing solution this invention provides, as is evident from a review of the Allen configuration.

There is no anticipation if a prior patent does not solve the problem(s) which the subsequent patent successfully solves. Technical Development Corporation v. Servo Corporation of America, 125 U.S.P.Q. 133.

4. Allen '224 does not disclose each and every element of this invention, as required for a *prima facie* case of anticipation, but instead merely shows a plurality of adapter holders on a tray framework.

For purposes of claim 1, 10 and 15-17, for instance, Allen '224 does not show or teach an adapter holder with a first and a second adapter mount area as defined in the invention. Instead the adapter holders in Allen '224 only have one adapter mount area, and there are multiple adapter holders which appear to be mounted on a tray framework. These elements in claim 1 (and claims 10 and 15-17 depend upon claim 1), are not shown, disclosed or taught in Allen '224.

There is no anticipation if the reference does not disclose each and every element of the claimed invention. SSIH Equipment S.A. v. United States International Trade Commission, 718 F.2d 365, 218 U.S.P.Q. 678 (1983).

For all the reasons set forth above, this invention is not anticipated by Allen '224.

Obviousness - Section 103(a) Rejection: Allen & Admitted Prior Art

The Examiner has rejected claims 2-4 and 18 under section 103(a), as being unpatentable over Allen '224 in view of the admitted prior art in the specification paragraphs [0028] to [0029]. Applicant requests the Examiner reconsider the rejection based on the arguments presented above with respect to anticipation by Allen, and the arguments presented below.

First of all, there is nothing in the Allen '224 reference which suggests the desirability of the combination and therefore the Examiner has not met the minimum required showing for *prima facie* obviousness.

Neither Allen nor anything in paragraphs [0028] to [0029] include the adapter holder with the first and second adapter mount areas, and the combination does not include all the elements of the claims.

In the U.S. Court of Appeals for the Federal Circuit case of *In Re: Lee*, 61 U.S.P.Q. 2d 1430, decided January 18, 2002, the Federal Circuit held:

... Thus, when they rely on what they assert to be general knowledge to negate patentability, that knowledge must be articulated and placed on the record. The failure to do so is not consistent with either effective administrative procedure or effective judicial

review. The Board cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies.

The examining attorney has therefore failed to meet the requirement to set forth with specificity the general knowledge in the art to enable a finding that the person having ordinary skill in the art would make such combination.

As the PTO recognizes in MPEP 2142:

The legal concept of *prima facie* obviousness is a procedural tool of examination which applies broadly to all arts. It allocates who has the burden of going forward with production of evidence in each step of the examination process.... The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the Examiner does not produce a *prima facie* case, the Applicant is under no obligation to submit evidence of non-obviousness.... The initial evaluation of *prima facie* obviousness thus relieves both the Examiner and Applicant from evaluating evidence beyond the prior art and the evidence in the specification as filed until the art has been shown to suggest the claimed invention.

MPEP 2143.01 provides:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests

the desirability of the combination. *In re: Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

The Federal Circuit has several times expressly addressed the issue of how to evaluate an alleged case of *prima facie* obviousness to determine whether it has been properly made. Thus, *In re: Geiger* stated in holding that the PTO "failed to establish a *prima facie* case of obviousness:

Obviousness cannot be established by combining the teaching of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. *ADC Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984).

Obviousness - Section 103(a) Rejection: Allen in View of Harvey '718

The Examiner has rejected claim 6 under section 103(a), as being unpatentable over Allen '224 in view of Harvey '718. Applicant requests the Examiner reconsider the rejection based on the arguments presented above with respect to anticipation by Allen, and the arguments presented below.

First of all, there is nothing in the Allen '224 reference which suggests the desirability of the combination and therefore the Examiner has not met the minimum required showing for *prima facie* obviousness, as stated above.

Furthermore, neither Allen nor Harvey include the adapter holder with the first and second adapter mount areas, or a fiber optic cable passageway between the

first adapter mount area and the second adapter mount area, and the combination does not therefore include all the elements of the claims in question. There can therefore be no obviousness when all the elements are not present.

Obviousness - Section 103(a) Rejection: Allen in View of Puetz '440

The Examiner has rejected claims 6-9, 13 and 14, under section 103(a), as being unpatentable over Allen '224 in view of Puetz '440. Applicant requests the Examiner reconsider the rejection based on the arguments presented above with respect to anticipation by Allen, and the arguments presented below.

First of all, there is nothing in the Allen '224 reference which suggests the desirability of the combination and therefore the Examiner has not met the minimum required showing for *prima facie* obviousness, as stated above.

Furthermore, neither Allen nor Puetz include the adapter holder with the first and second adapter mount areas, or a fiber optic cable passageway between the first adapter mount area and the second adapter mount area, and the combination does not therefore include all the elements of the claims in question. There can therefore be no obviousness when all the elements are not present, and all the elements of claim 1 are not present, let alone the elements of the recited claims which are dependent on claim 1.

Obviousness - Section 103(a) Rejection: Allen in View of Jenkins '519

The Examiner has rejected claims 11 and 12 under section 103(a), as being unpatentable over Allen '224 in view of Jenkins '519. Applicant requests the Examiner reconsider the rejection based on the arguments presented above with respect to anticipation by Allen, and the arguments presented below.

First of all, there is nothing in the Allen '224 reference which suggests the desirability of the combination and therefore the Examiner has not met the minimum required showing for *prima facie* obviousness, as stated above.

Furthermore, neither Allen nor Jenkins '519 include the adapter holder with the first and second adapter mount areas, or a fiber optic cable passageway between the first adapter mount area and the second adapter mount area, and the combination does not therefore include all the elements of the claims in question. There can therefore be no obviousness when all the elements are not present, and all the elements of claim 1 are not present, let alone the elements of the recited claims which are dependent on claim 1.

Obviousness - Section 103(a) Rejection: Allen in View of Hultemans '015

The Examiner has rejected claims 19 and 23-27 under section 103(a), as being unpatentable over Allen '224 in view of Hultemans '015. Applicant requests the Examiner reconsider the rejection based on the arguments presented above with respect to anticipation by Allen, and the arguments presented below.

First of all, there is nothing in the Allen '224 reference which suggests the desirability of the combination and therefore the Examiner has not met the minimum required showing for *prima facie* obviousness, as stated above.

Furthermore, with respect to claim 19, 23, 25, 26 and 27, neither Allen nor Hultemans '015 include the adapter holder with the first and second adapter mount areas, or a fiber optic cable passageway between the first adapter mount area and the second adapter mount area, and the combination does not therefore include all the elements of the claims in question. There can therefore be no obviousness when all the elements are not present, and all the elements of claim 1 are not present, let alone the elements of the recited claims which are dependent on claim 1.

With respect to claim 24, there is nothing in the Allen '224 reference which suggests the desirability of the combination and therefore the Examiner has not met the minimum required showing for *prima facie* obviousness, as stated above.

Furthermore, Applicant does not believe Hultemans '015 includes an alignment guide configured to insert into an alignment aperture of the adapter.

Obviousness - Section 103(a) Rejection: Allen in View of Hultemans '015 and in Further View of Puetz.

The Examiner has rejected claims 20-22 under section 103(a), as being unpatentable over Allen '224 in view of Hultemans '015, and in further view of Puetz. Applicant requests the Examiner reconsider the rejection based on the

arguments presented above with respect to anticipation by Allen, and the arguments presented below.

First of all, with respect to claims 20-22, there is nothing in the Allen '224 reference or in the Hultermans reference, which suggests the desirability of the combination and therefore the Examiner has not met the minimum required showing for *prima facie* obviousness, as stated above. Furthermore, neither Allen nor Hultermans '015 include the adapter holder with the first and second adapter mount areas, or a fiber optic cable passageway between the first adapter mount area and the second adapter mount area, and the combination does not therefore include all the elements of the claims in question. There can therefore be no obviousness when all the elements are not present.

With respect to claim 19, 21, 23, 25, 26 and 27, there is nothing in any of the references which includes the adapter holder with the first and second adapter mount areas, or a fiber optic cable passageway between the first adapter mount area and the second adapter mount area, and the combination does not therefore include all the elements of the claims in question. There can therefore be no obviousness when all the elements are not present.

With respect to claim 24, there is nothing in the Allen '224 reference or the Hultermans reference, which suggests the desirability of the combination and therefore the Examiner has not met the minimum required showing for *prima facie* obviousness, as stated above. Furthermore, Applicant does not believe

that either the Hultemans '015 reference or the Puetz reference include an alignment guide configured to insert into an alignment aperture of the adapter.

With respect to the same rejections made by examiner in the second paragraph of paragraph numbered 20, the applicant restates its response above and will likewise not repeat its argument.

Prior Art Made of Record and Not Relied Upon


The Applicant notes the prior art made of record but not relied upon and asserts that for the reasons set forth above, the claims are allowable over the art made of record.

Conclusion

Applicant therefore submits Claims 1-28 are in a position to proceed to allowance.

Respectfully submitted,

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ASSIGNEE Telect, Inc.
GROUP ART UNIT 2874
EXAMINER Hae M. Hyeon
ATTORNEY'S DOCKET NO. TE2-090
TITLE: FIBER OPTIC CONNECTOR TRAY SYSTEM

VERSION WITH MARKINGS TO SHOW CHANGES MADE
ACCOMPANYING RESPONSE TO DECEMBER 18, 2002 OFFICE ACTION

In the Specification

The replacement specification paragraphs incorporate the following amendments. Underlines indicate insertions and ~~strikeouts~~ indicate deletions.

The paragraph numbered [0054] beginning on page 15 has been amended as follows:

– [0054] Figure 9 is a top view of one embodiment of spool 111 which may be utilized in a fiber optic cable bend radius protection system which may be utilized with this invention in the tray, illustrating the guide framework with first transverse flange 334 with outward edge 335 and inner framework 329. First grooming flange 330 includes curved surface 331 which when spool guide frame 111 is rotated, is disposed above a fiber optic cable passageway and tends to groom, push or move the fiber optic cables in the passageway downward back into the passageway, or opening over which it

is disposed. Second groom flange 332 likewise acts to maintain the fiber optic cables in the desired or predetermined fiber optic cable passageway when ~~spool guide framework~~ 111 is rotated. --.

The paragraph numbered [0055] beginning on page 16 has been amended as follows:

– [0055] Figure 10 is an elevation view of the embodiment of the spool 111 (illustrated in Figure 10), showing guide framework with first grooming flange 330, second grooming flange 332, first transverse flange 334 with the flanged surface 334a and outward edge 335. The bottom outward portion 338 of first transverse flange 334 would be located in a groove provided by a base as explained and shown more fully below. Figure 10 also illustrates an outwardly facing curve surface ~~333 343~~ of the ~~spool guide framework~~ 111 which provides a surface against which fiber optic cables may be routed and bend radius thereby maintained. Although Figure 10 does not illustrate, there is preferably a curved surface between the flanged surface ~~first transverse facing surface~~ 334a and the outwardly facing curve surface 333 to further protect fiber optic cables routed there-against. --.

The paragraph numbered [0057] beginning on page 16 has been amended as follows:

-- [0057] Figure 12 shows a splice housing, but which may also be a storage housing. Shown are structure within splice housing 110, base 347 with first groove 350, passageway 348 and inwardly facing surface 349. Fiber optic cables may be routed through fiber optic cable passageway 348 with the inwardly facing surface 349 acting as an inward guide and providing bend radius protection in combination with outwardly facing curve surface 343 as illustrated in Figure 10. First groove 350 provides the recessed area into which first transverse flange 334 may be inserted (as shown in prior figures). Resilient latches 351 shown in Figure 12 may impart an outward and downward force on ledge 333 of spool ~~guide framework~~ 111 (shown in prior figures) to place a bias force on spool ~~guide framework~~ 111 preferably into a groove. The placement of the bias force on the outward edge 335 (shown in Figure 10) serves to prevent fiber optic cables of any diameter from being inadvertently pinched or caught between components. --.

The paragraph numbered [0060] beginning on page 18 has been amended as follows:

-- [0060] Figure 13 is section view 13-13 from Figure 12 and illustrates latch 351, groove 350 with first outward edge ~~side surface~~ 350a to groove 350. Groove 350 is configured to receive a guide framework 111 such as that shown in Figure 9, and latches such as latch 351 are configured to impart a downward force on an outer edge of the guide framework first